CBIA

CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

TESTIMONY OF

BONNIE STEWART

VICE PRESIDENT OF GOVERNMENT AFFAIRS

CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

BEFORE THE

FINANCE, REVENUE AND BONDING COMMITTEE

MARCH 28, 2011

My name is Bonnie Stewart. I am vice president of government affairs for the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 10,000 member companies in virtually every industry. They range from large, global corporations to small, family owned businesses. The vast majority of our member companies have fewer than 50 employees.

CBIA opposes **HB 6628 An Act Concerning Tax Fairness**, which would change Connecticut's current corporate income tax structure to require unitary, or combined, reporting. We are opposed to this measure.

What is Unitary or Combined Reporting?

Unitary or combined reporting requires companies with multiple business units (for example, branches or subsidiaries) to include all income earned in other states in their Connecticut tax calculation. Connecticut currently uses a separate reporting system, in which different business units that are part of a larger group file their own state tax returns in the states where they operate.

Unitary reporting sounds simple, but it is not. What business leaders have been saying for years was recently confirmed by the National Conference of State Legislatures

(NCSL) in its report *Combined Reporting with the Corporate Income Tax* (Nov. 2010). On pages iii – iv of that report, the NCSL says:

> "Defining the combined group is surprisingly difficult. Consistent with relevant judicial decisions, states can only combine corporations that are part of a unitary group. However, there is no bright line test of "unitary," and states have adopted different standards. A group of corporations may be considered unitary in one state but non-unitary in others and may be unitary in one year but not in the next."

Doesn't the difficulty of defining the group, and its ability to change, cause problems?

Yes, mandatory unitary/combined reporting results in a number of problems. Because the unitary group can change from one year to the next, and with the complexity of determining who is in a group, mandatory unitary/combined reporting results in uncertainty as well as increased administrative burdens and costs. These are problems both for the state and its businesses.

Uncertain Revenue Projections

Unitary reporting, a sleeping giant, was awakened after failing to advance for thirty years. State fiscal problems, along with talk of increased revenues cloaked under the phrase "tax fairness," led desperate lawmakers in some states to adopt the mandatory combine measure in the past five years. Unfortunately for those states, mandatory unitary/combined reporting has failed to live up to their expectations.

States need certainty where revenues are concerned, yet estimates of the state revenue impact of implementing combined reporting are highly uncertain. When Minnesota adopted combined reporting, the state projected increased revenues of $63 million (with a range of $23-103 million). Two years after combined reporting was implemented, the Department of Revenue estimated that there was no change in revenue as a result of mandatory combined reporting. In its report NCSL said that in reality, mandatory unitary/combined reporting causes some employers' taxes to increase and others to decrease, with little change in revenues collected.

Bonnie Stewart, CBIA **HB 6628**

Increased Administrative Burdens and Costs for the State and Its Employers

While increased state revenues cannot be counted on, increased administrative burdens and costs can.

Adoption of mandatory unitary combined reporting in Connecticut will require more company personnel to prepare returns and more state personnel to interpret and audit them. At a recent meeting with legislators, an accountant explained that because unitary returns are so complex and time-consuming, professionals generally charge four to five times more to prepare a unitary return than the return currently required in Connecticut.

The proposed tax structure change will also result in lengthy appeals and costly litigation. In combined-reporting states, an employer may not receive a final determination of taxes for a given year until 20 or more years after the fact. That is simply unacceptable.

But what about closing corporate loopholes?

Proponents of mandatory combined reporting say that mandatory unitary combined reporting is needed to close loopholes. This is clearly not the case in Connecticut. Connecticut has already passed a number of modifications to the state corporate income tax closing supposed "loopholes." Understanding that mandatory unitary combined reporting would not be the panacea that some purport it to be, Connecticut rejected the reporting system nearly a decade ago. Instead, lawmakers adopted add-back provisions to address perceived abuses and generate additional revenues. As times changed, a provision asserting economic nexus also was adopted.

It was obvious that making the addback provisions and asserting economic nexus would achieve results similar to what the advocates of unitary hoped to achieve--but at far less of an administrative burden on taxpayers and the Department of Revenue Services. What Connecticut did also produced far more certainty and predictability than could ever be achieved with a mandatory unitary system. And those factors are key to renewed business investment and effective state revenue planning in Connecticut.

Bonnie Stewart, CBIA **HB 6628**

NCSL encouraging legislators to look at the approach Connecticut's taken

The National Conference of State Legislatures (NCSL) is now encouraging other states to look at what Connecticut has already done. In its report *Combined Reporting with the Corporate Income Tax* (Nov. 2010), the NCSL says, "The tax planning opportunities that remain with combined reporting, together with the difficulty of determining the unitary group, may make combined reporting a less effective means of generating revenue than the adoption of an addback statute."

What should Connecticut do?

Connecticut should reject mandatory unitary combined reporting. It is complex and leads to uncertainty. It clearly increases administrative burdens and costs both for states and employers. Furthermore, mandatory unitary combined reporting directly targets the very businesses Connecticut is counting on to grow jobs--companies with multiple locations, such as manufacturing, R&D, and headquarters companies that employ tens of thousands of our residents. Hitting our economic-base industries with this tax reporting system will do nothing to help them create and keep good jobs here.

Connecticut has been there, done that. It's time to move forward and work together to create a climate that encourages private sector investment, which will increase opportunities for the people of Connecticut. CBIA urges the Finance Committee to reject HB 6628 as another bill that Connecticut cannot afford.

We urge you to reject **HB 6628**.

Thank you for the opportunity to explain why **HB 6628** would be harmful to our state.